IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5097 OF 2005

Chandrakant Mahadu Mhatre ...Applicant
Vs.
The State of Maharashtra ...Respondent

Shri. V. V. Purwant for the Applicant.
Shri. K. V. Saste, A.P.P. for the Respondent.

CORAM : A.S.OKA, J.
DATED : SEPTEMBER 16, 2005.

P.C.:

1. Heard the Advocate appearing for the Applicant and the learned A.P.P. for the State.

2. The offence alleged against the Applicant and the co-accused is under sections 307, 324, 504, 506 read with section 34 of the Indian Penal Code. The Advocate for the Applicant invited my attention to the fact that the Applicant is in custody since May, 2005. He submitted that looking to the allegations made by the prosecution, section 307 of the Indian Penal Code will not apply. He placed reliance on the decision of the Apex Court reported in 2001(3) Crimes, Page 410 (Supreme Court) (Bhausaheb Vs. State of Maharashtra). He submitted that in view of the law laid down by the Apex Court, considering the fact that the Applicant is already in custody for sufficient long time, he deserves to be enlarged on bail. He also claimed parity on the basis of the order dated 15th July, 2004 passed by the Sessions Court in fvour of the co-accused. The learned A.P.P. pointed out that the Applicant has undergone life imprisonment for the

offence punishable under section 302 of the Indian Penal Code and he was released on 01st October, 2003.

3. I have considered the submissions. It is not in dispute that till 01st October, 2003 the Applicant has undergone life sentence for the offence punishable under section 302 of the Indian Penal Code. The case of the prosecution as reflected from the F.I.R. and statements of the witnesses appears to be that the Applicant assaulted atleast three persons on head by a sword. At this stage, it cannot be said that the section 307 of the Indian Penal Code cannot be applicable. It is well settled that while considering the Application for bail, facts which are peculiar to the Applicant are required to be considered. The reliance placed by the Advocate for the Applicant on the decision of the Apex Court in the case of Bhausaheb (Supra) will not help him. In the present case, there are criminal antecedents of the Applicant in the form of his conviction under section 302 of the Indian Penal Code. Claim for parity cannot be considered in view of the said prior conviction under section 302 of the Indian Penal Code.

4. In my view, no case is made out for grant of bail. Hence, Application is rejected. It appears that the case is already before the Fast Track Court. The trial will be concluded as expeditiously as

possible by treating the case as High Court expediated case.

JUDGE